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Attorneys for Samsung Electronics Co., Ltd.,

Samsung Electronics America, Inc., and

Samsung Research America, Inc.

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

HUAWEI TECHNOLOGIES CO., LTD., et al.,

Plaintiffs,

v.

SAMSUNG ELECTRONICS CO., LTD., et al.,

Defendants.

SAMSUNG ELECTRONICS CO., LTD. &  
SAMSUNG ELECTRONICS AMERICA, INC.,

Counterclaim-Plaintiffs,

v.

HUAWEI TECHNOLOGIES CO., LTD.,  
HUAWEI DEVICE USA, INC., HUAWEI  
TECHNOLOGIES USA, INC., & HISILICON  
TECHNOLOGIES CO., LTD.,

Counterclaim-Defendants.

CASE NO. 16-cv-02787-WHO

**DECLARATION OF COLE  
MALMBERG IN SUPPORT OF  
HUAWEI'S ADMINISTRATIVE  
MOTION TO FILE UNDER SEAL  
PORTIONS OF HUAWEI'S  
OPPOSITIONS TO SAMSUNG'S  
SUMMARY JUDGMENT AND  
DAUBERT MOTIONS**

1 I, Cole Malmberg, declare as follows:

2 1. I am a member of the State Bar of California, admitted to practice before this  
3 Court, and an attorney at the law firm of Quinn Emanuel Urquhart & Sullivan, LLP, counsel for  
4 Samsung Electronics Co., Ltd., Samsung Electronics America, Inc., and Samsung Research  
5 America, Inc. (collectively, "Samsung"). Except as otherwise indicated, I have personal  
6 knowledge of the facts stated herein and, if called as a witness, could and would testify thereto.

7 2. Pursuant to Civil L.R. 79-5, I make this declaration in support of Huawei's  
8 Administrative Motion to File Under Seal Portions of Huawei's Oppositions to Samsung's  
9 Summary Judgment and *Daubert* Motions (Dkt. 347).

10 3. I have reviewed the portions of Huawei's Opposition to Samsung's Motion for  
11 Summary Judgment ("Huawei's Opp. To Samsung's MSJ"), Huawei's Opposition to Samsung's  
12 Motion to Strike Portions of Huawei's Expert Reports ("Huawei's Opp. To Samsung's Mot. to  
13 Strike"), and Huawei's Opposition to Samsung's Motion to Partially Exclude the Reports and  
14 Testimony of Jorge Padilla, Michael J. Lasinski, and Charles L. Jackson ("Huawei's Opp. to  
15 Samsung's Mot. to Exclude"), and the exhibits to each of those motions that contain or suggest  
16 confidential information.

17 **Huawei's Opp. To Samsung's MSJ**

18 4. The green highlighted portions on pages 13-19 of Huawei's Opp. To Samsung's  
19 MSJ contain technical information about the Samsung accused products. Samsung maintains this  
20 information as a trade secret and does not disclose it to the public. Disclosure of this information  
21 to the public could harm Samsung's competitive standing by revealing information that Samsung  
22 invested substantial time and resources to develop.

23 5. The green highlighted portions on pages 2-3 of the Declaration of Robert Akl in  
24 Support of Huawei's Opp. To Samsung's MSJ contains technical information about the Samsung  
25 accused products. Samsung maintains this information as a trade secret and does not disclose it to  
26 the public. Disclosure of this information to the public could harm Samsung's competitive  
27 standing by revealing information that Samsung invested substantial time and resources to  
28 develop.

1           6.       The entirety of Exhibits 3-10, 16, and 26-74 to the Declaration of Cory Szczepanik  
2 in Support of Huawei's Opp. to Samsung's MSJ contain technical information about components  
3 of the Samsung accused products. Samsung maintains this information as a trade secret and does  
4 not disclose it to the public. Disclosure of this information to the public could harm Samsung's  
5 competitive standing by revealing information that is currently a source of competitive advantage  
6 for Samsung.

7           7.       The green highlighted portions of Exhibit 80 (paragraphs 137-236, 241, 243-46,  
8 249-56, 257, and 267 including figures and tables adjacent to those paragraphs) to the Declaration  
9 of Cory Szczepanik in Support of Huawei's Opp. to Samsung's MSJ contain technical information  
10 about components of the Samsung accused products. Samsung maintains this information as a  
11 trade secret and does not disclose it to the public. Disclosure of this information to the public  
12 could harm Samsung's competitive standing by revealing information that is currently a source of  
13 competitive advantage for Samsung.

14           8.       The green highlighted portions of Exhibit 81 (paragraphs 4-12 including table  
15 adjacent to paragraph 12) to the Declaration of Cory Szczepanik in Support of Huawei's Opp. to  
16 Samsung's MSJ contain technical information about components of the Samsung accused  
17 products. Samsung maintains this information as a trade secret and does not disclose it to the  
18 public. Disclosure of this information to the public could harm Samsung's competitive standing  
19 by revealing information that is currently a source of competitive advantage for Samsung.

20 **Huawei's Opp. To Samsung's Mot. to Strike**

21           9.       The green highlighted portion (page 4) of Huawei's Opp. To Samsung's Mot. to  
22 Strike contains technical information about components of the Samsung accused products.  
23 Samsung maintains this information as a trade secret and does not disclose it to the public.  
24 Disclosure of this information to the public could harm Samsung's competitive standing by  
25 revealing information that is currently a source of competitive advantage for Samsung.

26           10.      Samsung does not maintain a claim of confidentiality over Exhibits 2, 9, and 11 to  
27 the Declaration of Irene Yang in Support of Huawei's Opp. to Samsung's Mot. to Strike.

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1           11.     The entirety of Exhibits 3 and 4 to the Declaration of Irene Yang in Support of  
 2 Huawei's Opp. To Samsung's Mot. to Strike contains technical information about components of  
 3 the Samsung accused products. Samsung maintains this information as a trade secret and does not  
 4 disclose it to the public. Disclosure of this information to the public could harm Samsung's  
 5 competitive standing by revealing information that is currently a source of competitive advantage  
 6 for Samsung.

7           12.     The green highlighted portions (pages 174-75 and 185) of Exhibit 10 to the  
 8 Declaration of Irene Yang in Support of Huawei's Opp. To Samsung's Mtn. to Strike contain  
 9 technical information about components of the Samsung accused products. Samsung maintains  
 10 this information as a trade secret and does not disclose it to the public. Disclosure of this  
 11 information to the public could harm Samsung's competitive standing by revealing information  
 12 that is currently a source of competitive advantage for Samsung.

13 **Huawei's Opp. To Samsung's Mot. to Exclude**

14           13.     The green highlighted portions (pages 2-3, 6-7, 18-20, and 23-24) of Huawei's  
 15 Opp. To Samsung's Mot. to Exclude contain highly confidential information about Samsung's  
 16 manufacturing and sale of smartphones, as well as Samsung's licensing practices. Samsung  
 17 maintains this information as a trade secret and does not disclose it to the public. Disclosure of  
 18 this information to the public could harm Samsung's competitive standing by giving its  
 19 competitors insight into Samsung's operations and finances. Samsung does not have similar  
 20 access to this information about its competitors and would thus be disadvantaged in the  
 21 marketplace.

22           14.     Exhibits 3, 4, 18, and 20 to the Declaration of Leif Peterson in Support of Huawei's  
 23 Opp. To Samsung's Mot. to Exclude contain highly confidential Samsung information. Exhibits  
 24 3, 4, and 6 contain highly confidential information about Samsung's manufacturing, sale of  
 25 smartphones, and licensing practices. Samsung maintains this information as a trade secret and  
 26 does not disclose it to the public. Disclosure of this information to the public could harm  
 27 Samsung's competitive standing by giving its competitors insight into Samsung's operations and  
 28 finances. Samsung does not have similar access to this information about its competitors and

1 would thus be disadvantaged in the marketplace. Exhibit 18 contains technical information about  
2 components of the Samsung accused products. Samsung maintains this information as a trade  
3 secret and does not disclose it to the public. Disclosure of this information to the public could  
4 harm Samsung's competitive standing by revealing information that is currently a source of  
5 competitive advantage for Samsung. Samsung does not maintain a claim of confidentiality over  
6 any other blue highlighted portions of Huawei's MSJ. Exhibit 20 contains highly confidential  
7 information about licensing negotiations conducted between Huawei and Samsung. Those  
8 negotiations were subject to a non-disclosure agreement and conducted confidentially. Samsung  
9 maintains information about those negotiations as highly confidential and does not disclose it to  
10 the public. Disclosure of such information to the public could harm Samsung's competitive  
11 standing by giving competitors access to information about Samsung's negotiating practices that  
12 Samsung does not have similar access to in return.

13 15. The green highlighted portions (pages 204-09) Exhibit 5 to the Declaration of Leif  
14 Peterson in Support of Huawei's Opp. To Samsung's Mot. to Exclude contain highly confidential  
15 information about licensing negotiations conducted by Samsung subject to a non-disclosure  
16 agreement and conducted confidentially. Samsung maintains information about those negotiations  
17 as highly confidential and does not disclose it to the public. Disclosure of such information to the  
18 public could harm Samsung's competitive standing by giving competitors access to information  
19 about Samsung's negotiating practices that Samsung does not have similar access to in return.

20 16. Samsung does not maintain a claim of confidentiality over Exhibit 6 to the  
21 Declaration of Leif Peterson in Support of Huawei's Opp. to Samsung's Mot. to Exclude.

22 17. The yellow highlighted portions (pages 6, 7, 10, and 11) of Exhibit 8 to the  
23 Declaration of Leif Peterson in Support of Huawei's Opp. To Samsung's Mot. to Exclude contain  
24 highly confidential information about licensing negotiations conducted between Huawei and  
25 Samsung. Those negotiations were subject to a non-disclosure agreement and conducted  
26 confidentially. Samsung maintains information about those negotiations as highly confidential  
27 and does not disclose it to the public. Disclosure of such information to the public could harm  
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1 Samsung's competitive standing by giving competitors access to information about Samsung's  
2 negotiating practices that Samsung does not have similar access to in return.

3 18. The yellow highlighted portions (page 103) of Exhibit 9 to the Declaration of Leif  
4 Peterson in Support of Huawei's Opp. To Samsung's Mot. to Exclude contain highly confidential  
5 information about licensing negotiations conducted between Huawei and Samsung. Those  
6 negotiations were subject to a non-disclosure agreement and conducted confidentially. Samsung  
7 maintains information about those negotiations as highly confidential and does not disclose it to  
8 the public. Disclosure of such information to the public could harm Samsung's competitive  
9 standing by giving competitors access to information about Samsung's negotiating practices that  
10 Samsung does not have similar access to in return.

11 19. The yellow highlighted portions (pages 11-16) of Exhibit 10 to the Declaration of  
12 Leif Peterson in Support of Huawei's Opp. To Samsung's Mot. to Exclude contain highly  
13 confidential information about licensing negotiations conducted between Huawei and Samsung.  
14 Those negotiations were subject to a non-disclosure agreement and conducted confidentially.  
15 Samsung maintains information about those negotiations as highly confidential and does not  
16 disclose it to the public. Disclosure of such information to the public could harm Samsung's  
17 competitive standing by giving competitors access to information about Samsung's negotiating  
18 practices that Samsung does not have similar access to in return.

19 20. The green highlighted portions (pages 4-19, 22-26, 35-38, 40-41, and 43-47) of  
20 Exhibit 11 to the Declaration of Leif Peterson in Support of Huawei's Opp. To Samsung's Mot. to  
21 Exclude contain highly confidential information that Samsung does not disclose to the public.  
22 Some of the green highlighted portions contain information about Samsung's operations and  
23 finances. Samsung maintains this information as a trade secret and does not disclose it to the  
24 public. Disclosure of this information to the public could harm Samsung's competitive standing  
25 by giving its competitors insight into Samsung's operations and finances. Samsung does not have  
26 similar access to this information about its competitors and would thus be disadvantaged in the  
27 marketplace. The other green highlighted portions contain the results of a patent survey and  
28 related analysis that were prepared on behalf of Samsung by a third party. Samsung does not



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**ATTESTATION**

Pursuant to Civil L.R. 5-1(i)(3), the undersigned attests that concurrence in the filing of this document has been obtained from Cole Malmberg.

/s/ Victoria F. Maroulis  
Victoria F. Maroulis